



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2012

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2012-02004

Dear Ms. Sangsvang:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 448703 (PIR No. W013932).

The City of Fort Worth (the "city") received a request for information pertaining to case number 11-130639. You state the city is releasing some information to the requestor. You state the city has redacted certain Texas motor vehicle record information under section 552.130(a)(2) of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007), and has redacted information pursuant to section 552.130(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the

¹Open Records Letter Nos. 2006-14726 and 2007-00198 are previous determinations issued to the city authorizing it to withhold certain Texas motor vehicle record information under section 552.130 of the Government Code without the necessity of requesting an attorney general decision. Section 552.130(c) of the Government Code authorizes a governmental body to redact from the requested information it discloses, without the necessity of requesting a decision from this office, a motor vehicle operator's or driver's license or permit issued by an agency of this state, or another state or country, and a personal identification document issued by an agency of this state, or another state or country, or a local agency authorized to issue an identification document. *See* Gov't Code § 552.130(c) (governmental body may redact information described by subsections 552.130(a)(1) and (3) from any information the governmental body discloses without necessity of requesting decision from attorney general); *see id.* § 552.130(d)) (entitling requestor to appeal governmental body's decision to withhold information pursuant to section 552.130(c) to attorney general); *id.* § 552.130(e)) (requiring governmental body that withholds information pursuant to section 552.130(c) to provide notice to requestor).

Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains a document that has been filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Gov't Code § 552.022(a)(17). Such information must be released unless it is confidential under the Act or other law. You claim the court-filed document is excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and, therefore, does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the city may not withhold court-filed document, which we have indicated, under section 552.108. However, portions of the marked court-filed document are excepted under section 552.130 of the Government Code.² Because section 552.130 makes information confidential under the Act, we will consider the applicability of this exception to the marked court-filed document.

Section 552.130 of the Government Code provides information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(2). Therefore, the city must withhold the license plate and vehicle identification number we have indicated in the court-filed document under section 552.130. The remaining information subject to section 552.022(a)(17) must be released.

You claim the remaining submitted information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide an affidavit from a detective with the city's police department stating, the remaining information relates to a pending criminal investigation and prosecution. Based on this representation, we conclude release of this information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we find section 552.108(a)(1) is applicable to the remaining information.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which you state will be released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the city must withhold the information we have indicated under section 552.130 of the Government Code and release the remaining information in the court-filed document subject to section 552.022(a)(17) of the Government Code. With the exception of basic information, the city may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 448703

Enc. Submitted documents

c: Requestor
(w/o enclosures)